

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Assessment and Collection of Regulatory Fees for)	MD Docket No. 17-134
Fiscal Year 2017)	

COMMENTS OF CENTURYLINK

CenturyLink, Inc., on behalf of itself and its regulated affiliates, submits these Comments in response to the Notice of Proposed Rulemaking released by the Commission on May 23, 2017 (the “*Notice*”)¹. In the *Notice*, the Commission proposes among other things to reallocate 38 of the 51 Full Time Employees (or FTEs) in the Wireline Competition Bureau who work on Universal Service Fund (USF) issues from direct FTEs to indirect FTEs. The Commission also proposes to reallocate four of the Wireline Competition Bureau FTEs that work on numbering issues to the Wireless Telecommunications Bureau as direct FTEs for regulatory fee purposes. CenturyLink supports both of these proposed reallocations and believes that they are warranted.

I. INTRODUCTION AND SUMMARY

Section 9 of the Communications Act mandates that the Commission update its schedule of regulatory fees to ensure that they reflect the Commission’s current activities and the benefits regulated entities receive from those activities.² Section 9 requires that fees levied on regulated entities be derived based on the number of FTEs engaged in regulatory activities within the named bureaus “and other offices of the Commission” and be adjusted to account for “factors that are reasonably related to the benefits provided to the payor of the fee by the Commission’s

¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, MD Docket No. 17-134, FCC 17-62 (rel. May 23, 2017).

² 47 U.S.C. § 159(b)(1)(A).

activities.”³ “[T]he plain wording of the statute requires the Commission to calculate fees based on what FTEs are doing, not on where they are located.”⁴

It has become apparent in recent years that Wireline Competition Bureau regulatees have been bearing a disproportionate share of the Commission’s regulatory fees. In 2012, after examining FTE data, the Commission determined that Wireline Competition Bureau regulatees contributed 47 percent of the total regulatory fee collection, yet that Bureau employed only 29 percent of the FTEs considered direct in 2012.⁵ At that time, the Commission had not updated FTE allocations since 1998, meaning that Wireline Competition Bureau regulatees had likely borne a disproportionate share of regulatory fees for many years. By September 2016, the portion of regulatory fees collected from Wireline Competition Bureau regulatees had dropped only to 38 percent of the Commission’s 2016 regulatory fee collection.⁶

In the *Notice*, the Commission proposes to reallocate 38 FTEs associated with USF work as indirect and to reallocate four FTEs that work on wireless numbering issues to the Wireless Telecommunications Bureau. With these proposed reallocations, Wireline Competition Bureau regulatees will pay 32.38 percent of the Commission’s regulatory fees, a large step in reducing

³ 47 U.S.C. § 159(b)(1)(A).

⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2013; Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket Nos. 13-140, 12-201 and 08-65, Opinion, 28 FCC Rcd 12351 ¶ 18 (2013).

⁵ *Assessment and Collection of Regulatory Fees for Fiscal Year 2014; Assessment and Collection of Regulatory Fees for Fiscal Year 2013; Procedures for Assessment and Collection of Regulatory Fees*, MD Docket Nos. 14-92, 13-140 and 12-201, Opinion, 29 FCC Rcd 6417 ¶ 6 (2014).

⁶ *Assessment and Collection of Regulatory Fees for Fiscal Year 2016*, MD Docket No. 16-166, Report and Order, FCC 16-121 ¶ 6 (rel. Sept. 2, 2016).

the regulatory fee disparity.⁷ For the reasons that follow, the Commission should adopt the FTE reallocations that it proposes in the *Notice*.

II. THE COMMISSION SHOULD REALLOCATE 38 UNIVERSAL SERVICE FUND FTEs IN THE WIRELINE COMPETITION BUREAU AS INDIRECT FTEs

The Commission estimates that there are approximately 51 FTEs in the Wireline Competition Bureau, including the Bureau front office, devoted to USF issues, with 13 of those FTEs devoted to the high-cost program.⁸ Approximately 38 FTEs work on the schools and libraries program, the Lifeline program, the rural healthcare program and universal service contributions.⁹ In the *Notice*, the Commission proposes to reallocate 38 of the 51 FTEs in the Wireline Competition Bureau who work on USF issues from direct FTEs to indirect FTEs. The Commission should adopt this reallocation as proposed.

All of the justifications given by the Commission for reallocating USF FTEs as indirect FTEs are sound. First, as the Commission notes, contributions to the USF are required from every provider using any technology that has end-user interstate telecommunications revenue, not just from Wireline Competition Bureau regulatees.

Second, three of the distribution programs – E-Rate, Lifeline, and Rural Healthcare – tie funding to the beneficiary, not Commission regulatees. Thus, it does not make sense to attribute the FTEs working on these programs as Wireline Competition Bureau direct FTEs.

⁷ *Notice* ¶ 8.

⁸ *Id.* at ¶ 9.

⁹ In 2016, the Commission estimated that approximately 52 FTEs in the Wireline Competition Bureau worked on universal service issues. At that time, of the FTEs that worked on universal service issues, approximately 16 worked on the high-cost program, 13 worked on the schools and libraries program, nine worked on the Lifeline program, seven worked on the rural healthcare program and seven worked on universal service contributions. *Assessment and Collection of Regulatory Fees for Fiscal Year 2016*, MD Docket No. 16-166, Notice of Proposed Rulemaking, 31 FCC Rcd 5757 ¶ 19 (2016).

Third, wireless providers are now the primary beneficiaries of the Lifeline program, and satellite operators, fiber builders and Wi-Fi network installers may all receive funding through the E-Rate and Rural Healthcare programs. Accordingly, it is reasonable to adjust the allocation of FTEs attributable to these programs to account for the fact that non-Wireline Competition Bureau regulatees are beneficiaries of these programs.¹⁰ Reallocating the FTEs attributable to these programs as indirect FTEs is a sensible way to adjust the allocation.

Fourth, treating USF FTEs as indirect FTEs is more consistent with how FTEs working on universal service issues are treated elsewhere in the Commission. FTEs working on universal service issues in the Enforcement Bureau, the Office of the Managing Director, the Office of the Inspector General and the Office of the General Counsel are all treated as indirect FTEs.¹¹

In 2016, the Commission declined to reallocate direct FTEs working on universal service mechanisms in the Wireline Competition Bureau as indirect FTEs.¹² In doing so the Commission noted that work done on universal service outside of the Wireline Competition Bureau was categorized as indirect FTEs. The Commission's primary concern about reallocating USF FTEs as indirect in 2016 was that it would impose a higher regulatory fee burden on Commission licensees such as radio and television broadcasters who are not involved in high-cost and Lifeline universal service issues. This concern is misplaced as there is no completely pure way to precisely allocate every Commission FTE. It must be emphasized that Wireline Competition Bureau regulatees have borne a disproportionate regulatory fee burden for many years to the benefit of other Commission regulatees. CenturyLink believes that it is now

¹⁰ 47 U.S.C. § 159(b)(1)(A).

¹¹ *Notice* ¶ 9.

¹² *Assessment and Collection of Regulatory Fees for Fiscal Year 2016*, MD Docket No. 16-166, Report and Order, 31 FCC Rcd 10339 ¶ 22 (2016).

appropriate to treat the 38 FTEs working on non-High Cost Fund universal service issues in the Wireline Competition Bureau as indirect FTEs.

III. THE COMMISSION SHOULD REASSIGN FOUR FTEs WORKING ON NUMBERING ISSUES FROM THE WIRELINE COMPETITION BUREAU TO THE WIRELESS TELECOMMUNICATIONS BUREAU AS DIRECT FTEs

In the *Notice*, the Commission states that 7-8 FTEs in the Wireline Competition Bureau work on numbering issues. CenturyLink agrees that four of these FTEs should be allocated to the Wireless Telecommunications Bureau. Today, there are more wireless subscribers in the United States than there are wireline access lines and the number of wireless subscribers has been increasing while the number of wireline access lines has been decreasing.¹³ As the Commission notes, Wireless Telecommunications Bureau regulatees control 44.02 percent of assigned numbers under the North American Numbering Plan and 73.01 percent of voice subscriptions. Under these circumstances, it is appropriate to allocate half, or four, of the FTEs working on numbering issues to the Wireless Telecommunications Bureau as direct FTEs.

¹³ *Assessment and Collection of Regulatory Fees for Fiscal Year 2014; Assessment and Collection of Regulatory Fees for Fiscal Year 2013; Procedures for Assessment and Collection of Regulatory Fees*, MD Docket No. 14-92, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 10767 ¶ 30 (2014).

IV. CONCLUSION

For the foregoing reasons, the Commission should adopt the proposals made in the *Notice* to (1) reallocate 38 of the 51 FTEs in the Wireline Competition Bureau who work on USF issues from direct FTEs to indirect FTEs and (2) reallocate four of the Wireline Competition Bureau FTEs that work on numbering issues to the Wireless Telecommunications Bureau as direct FTEs for regulatory fee purposes.

Respectfully submitted,

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